

Tuesday, August 8, 2006

**The Subcommittee on Economic Security, Infrastructure Protection,
and Cybersecurity and the Subcommittee on Emergency Preparedness,
Science, and Technology of the Committee on Homeland Security**

**“Assessing the Northern Border: Considerations for Maintaining
Secure and Open Borders.”**

Testimony of Washington State Senator Dale Brandland

Chairman Lungren, Chairman (Sheriff) Reichert, members of the committee, I would like to thank you for inviting me to testify before your committee. My name is Dale Brandland and I am the state senator representing our 42nd district, which includes the northern part of Whatcom County and our northern border with Canada.

Prior to my being elected to the state senate, I was the sheriff of Whatcom County and held that position for 11 years. My understanding of this hearing is that the committee is looking for an assessment of risks at the northern border and the infrastructure necessary to address those risks. I would like to address several points and they are: Cooperation among all agencies and Interoperability, Infrastructure and Secure Identification.

Cooperation and Interoperability

Due to our proximity to the Canadian border, Whatcom County has a large presence of federal agencies that deal with the legal entry of goods and people into the United States. They also play a very large role in controlling the illegal entry of goods, drugs and people into our country. Historically, Whatcom County has always enjoyed good working relationships with these agencies and their personnel. We have also formed relationships with our counterparts in Canada. People involved in criminal activity on our border, are being investigated by agents on both sides of our border. Cooperation and information sharing is the norm in our county. The cities of Lynden, Sumas and Blaine are actually dispatched from the US Border Patrol Office in Blaine. Most agencies carry scanners in their vehicles and monitor each others frequencies so that they can respond and help in cases of emergencies. This voluntary cooperative spirit between agencies is one of the keys to the success of all of our agencies.

That being said, it does illustrate one of our fundamental flaws and it is always the number one issue we deal with when we have a major incident. Our personnel do have the ability to *listen* to radio traffic on other frequencies but they do not have the ability to talk to one another. In Whatcom County multiple agencies operate on multiple frequencies. Blaine, Lynden and Sumas share a frequency with the Border Patrol. The Sheriff's Office shares a frequency with Ferndale and Everson. Lummi Law and Order uses a different frequency. All fire units share a separate frequency. Western Washington University has its own dispatch center and frequency. The Bellingham Police Dept has its own frequency and the state patrol has its own frequency. If the National Guard is activated it will bring its own radio equipment and its own frequency. And yes, other federal agencies have their own frequencies. As you know, this is not unique to Whatcom County.

Mr. Chair I would like to thank you and the other members of this committee for passing the 21st Century Emergency Communications Act of 2006. Until this country comes to grips with the issue of interoperability and creates seamless ways for law enforcement personnel to talk to one another and with fire, public works, emergency management and their command posts, we will continue to see needless loss of life and property damage during major disasters.

Infrastructure

Representatives of the federal agencies are better able to speak to the issue of the 'assessment of risk' and the problems associated with accomplishing their mission. I would like to speak to you about the infrastructure necessary to address those risks.

In 1999, I testified before The House Judiciary Committee's Subcommittee on Immigration and Claims about the manpower shortage we were experiencing, specifically with the Border Patrol and the porous nature of our northern border. Since that time we have seen dramatic changes addressing those issues. Agencies have consolidated. We have more manpower at our border. We have an air wing that uses state of the art technology to apprehend illegal immigrants and drug smugglers and it is becoming increasingly difficult to enter our country illegally.

I cannot tell you the number of cases that are generated by our federal agencies but I can tell you that most of them are handled at the local level. Most federal cases taken to the U.S. Attorney's office in Seattle are declined. This means that they will not prosecute the case. The case is then referred to our local agencies for prosecution. It is handled by our prosecutor and public defender, processed in our courts and eventually, those convicted, are housed in the Whatcom County Jail or sent to the state Department of Corrections. If we do not handle these cases they would *not* be prosecuted. The cost associated with processing border related cases, for Whatcom County, is estimated to be over \$2 million annually. I do not know the financial impact to our state's Department of Corrections but considering the cost of incarceration, I know it is a lot of money.

There has been improvement in this area. When I testified in 1999 it was estimated that we prosecuted 85% of all cases generated by federal agencies. Estimates today now put that number at between 60-70%. Part of the reason for that decline is the U.S. Attorney's Office in Seattle and their aggressive efforts to help us. Unfortunately, I hear that recent (budget?) cuts at the U.S. Attorney's Office will severely impact to its ability to prosecute cases at current levels. Whatcom County has also been the recipient of a Byrne Grant that focuses on fast tracking people through the criminal justice system. It has been successful but we are unsure about future funding. The developments at the US Attorney's Office and the uncertainty of future funding from Byrne grants has everyone concerned. Our courts are clogged with criminal cases and our jail is overcrowded. We are running out of options.

The criminal justice system is just that, a system. The system begins with an arrest, but it does not end there. It is a system that requires balance. Overloading one part throws the rest of the system out of balance. I applaud the decision to hire more federal agents, but if we don't support and fund the rest of the system to prosecute border criminals and hold them in custody, we are only making marginal gains. In effect, we only increase the load for the already-overburdened criminal justice system at the local level.

Secure Identification

Lastly, I would like to comment on identification needed to cross the border. I personally feel that there needs to be a safe, reliable and efficient way to move people back and forth across the border. As the nation moves into

discussion about a uniform document for crossing the border, I believe the primary concern should be making sure that we have a secure, tamper-proof document that follows a uniform standard.

A secure ID is tamper proof and has a high level of reliability. For example, Washington State moved to make our driver's licenses more secure three years ago when the legislature passed a bill that incorporated a biometric identifier in the driver's license. Shortly after we passed our law, Congress passed the Real ID Act. We have postponed the implementation of our system until the standards of the Real ID Act are implemented. I believe it is time to use technology to protect people's privacy and not intrude into it.

In anticipation of the 2010 Olympics in Vancouver, the State of Washington and the Province of British Columbia are working at developing uniform standards for the issuance of driver's licenses. Both jurisdictions understand that the driver's license is the most common form of ID used today. It is an ideal time to develop a pilot program with our two countries that takes full advantage of current technology and develops an ID system that is secure, affordable and workable for both our nations, as we struggle with the issue of national security. In Whatcom County, we understand the importance of national security but we also value the importance of allowing honest citizens to flow back and forth across our border.

Mr. Chair I would conclude by again saying thank you for the opportunity to speak before your committee.